MERCED COUNTY

DEPARTMENT OF AGRICULTURE

David A. Robinson
Agricultural Commissioner
Director of Weights and Measures
Director of Animal Control

2139 Wardrobe Avenue
Merced, CA 95340-6495
Phone: (209) 385-7431
Fax: (209)725-3536
Los Banos Office: (209) 827-2030

Animal Control: (209) 385-7436
www.co.merced.ca.us

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Pesticide Use Enforcement Program Workplan for Fiscal Year 2007/2008

Agricultural Commissioner Budgeted Staff Allocation for FY 2007/2008

1 – County Agricultural Commissioner
1 – Assistant Agricultural Commissioner
3 – Deputy Agricultural Commissioners
17 – Agricultural Biologists
4 – Typist Clerks
1 – Office Supervisor
1 – Account Clerk
1 – Automation Systems Analyst
As needed, extra help staff, primarily for pest detection and standardization programs

One deputy position with primary duties consisting of pest detection and pest eradication is currently vacant. Recruitment for the vacant deputy position is currently taking place. One biologist position is currently vacant and in the process of being filled.

Pesticide Use Enforcement Programs Resources

Including administration, supervision, inspector, technical, and clerical hours, historical utilization of staff on pesticide use enforcement programs and projection for this fiscal year are as follows [1,770 hours = 1 full time equivalent (fte)]:

FY 02/03 – 16.0 PUE fte (38.7% of Departmental 41.3 total fte)
FY 03/04 – 15.3 PUE fte (33.6% of Departmental 45.6 total fte)
FY 04/05 – 15.6 PUE fte (40.8% of Departmental 38.2 total fte)
FY 05/06 – 15.6 PUE fte (44.9% of Departmental 34.7 total fte)
FY 06/07 – 15.7 PUE fte (39.3% of Departmental 40.0 total fte)

5-year average – 15.6 PUE fte (39.0% of Departmental 40.0 total fte)

Notes. FY 03/04 reflects a significant shift in priority to Exotic Newcastle Disease Surveillance activities. FY 05/06 and FY 06/07 both had changes in staffing (vacating of positions and re-hiring for these positions). Once all positions are filled and new biologists obtain their first licenses of eligibility, more department total f.t.e. devoted to the PUE program is anticipated

PUE Program Assets

- Each agricultural biologist whose primary assignment is PUE has an assigned vehicle. In addition, PUE staff has been provided with digital cameras and thermo-anemometers. In order to verify buffer zones, two rangefinders are available.

- Agricultural biologists have computers at their desks providing full access to the restricted materials permit / operator identification number program. Also, each computer has broadband Internet access.

- There is one district office in Los Banos, with four agricultural biologists assigned to that office. Each biologist also has a desktop computer with full capability to issue permits.

- Agricultural biologist staff has significant experience with the county. The range of experience ranges from 0 to 32 years.

- All agricultural biologists work in the PUE program to one degree or another. Six agricultural biologists have PUE as their primary assignment. In addition to the six PUE biologists, three new biologists were hired towards the latter part of FY 06/07 and the start of 07/08. One of the recently hired biologists was hired with one year of previous pesticide use enforcement experience in another county and has obtained both relevant pesticide biologist licenses. Of the remaining recently recruited biologists, another has already obtained her Pesticide Regulations license. The newest biologist will be taking his first exams this fall. Their primary assignments will be PUE. These three new biologists will be concentrating on PUE, but working in other programs as needed.

- Two of our agricultural biologists have obtained the deputy agricultural commissioner license of eligibility from CDFA. Both have extensive PUE experience.

- Our department has one designated bilingual agricultural biologist who is fluent in Spanish

- All agricultural biologist staff have cell phones with direct connect capability. It is through the same provider as DPR, allowing direct-connect with our enforcement branch liaison.

- Our staff automation systems analyst has jointly developed the new Ag GIS permit program with personnel in Glenn County. Our staff automation systems analyst implemented the new Ag GIS permit program midway through FY 06/07. Staff has been trained on its use which will offer a friendlier user interface, a more accessible information database, and the future ability to incorporate GIS information directly into the permit program.

- Our staff automation systems analyst's expertise in the restricted materials permit and pesticide use reporting programs continues to be recognized through DPR's addition of $25,000 to our Pesticide Use Reports contract. This addition is to provide statewide support to DPR's CEDTS program, to upgrade CAC systems, and provide outreach to pesticide applicators that are considering using the CEDTS reporting system.

Restricted Materials Permitting / Licensee Registration Program

3-Year Statistical History

	FY 04/05	FY 05/06	FY06/07	3-Year Average
Restricted Materials Permits Issued	1797	1642	1747	1729
Private Applicator Certifications	318	291	378	329
Notices of Intent Reviewed	6410	6001	6395	6269
Pre-Application Site Inspections	583	383	490	485
-- Percentage	9.10%	6.38%	7.66%	7.71%
Operator Identification Numbers Issued	94	75	125	98
Continuing Education Sessions	16	20	18	18
C.E. Session Private Applicator Attendance	384	512	508	468
C.E. Session Licensee Attendance	563	610	539	570
Pest Control Business Registrations	165	164	142	157
Pest Control Advisor Registrations	228	221	214	221
Pest Control Pilot Registrations	55	49	47	50
Farm Labor Contractor Registrations	79	80	102	87
Structural Operator Notifications Received	70	76	73	73

Local Conditions – Sensitive Sites

- Residences and occupied businesses near field fumigations
- Rural schools in the midst of agricultural operations
- Ag/Urban interface (mostly in the Los Banos area but an emerging issue with development associated with the new University of California campus)
- Dormant season applications to trees and vines in proximity to waterways
- Sites with a history of neighbor complaints
- Endangered species habitats
- Sensitive crops (protection of organic production)
- Groundwater protection areas (357 sections in Merced County)

Local Conditions – Cropping Patterns

- Merced County produces over 200 commodities. All areas of the county are heterogeneous in planting patterns. For workload reasons, the county is divided into five pesticide use enforcement districts with the major crops as follows:

- District 1 (Merced – Atwater– Livingston–Delhi – Snelling)
    - Tree crops (almond, peach, pistachio, walnut, apricot); vine crops (grape, berries, kiwi); dairies and dairy support crops (silage corn, sudan grass, grain hay, alfalfa); poultry and egg production; rangeland (irrigated and non-irrigated); vegetable crops (sweet potato, tomato, strawberry, watermelons); nursery crop production.
    - Generally medium to large operations with considerable urban interface occurring around the perimeters of Merced, Atwater, Livingston and Delhi. Infrastructure and development of the area around the new University of California, Merced is also becoming an urban interface concern. Seasonal streams used during the summer to move irrigation water and the Merced River are significant environmental resources and are of special environmental concern. The west part of the district has primarily leaching sections of concern for groundwater protection.

- District 2 (Merced – Le Grand – El Nido – Planada)
    - Tree crops (almond, pistachio, fig, dried plum, walnut,); vine crops (grape); dairy and dairy support crops (silage corn, grain hay, alfalfa); vegetable crops (tomato, radicchio, peppers, truck farming); nursery crop production; field crops (cotton, sugar beet, rice, grains); beef cattle; irrigated pasture and rangeland.
    - Generally small to medium size farms with significant urban interface issues due to areas of infrastructure and development near the new University of California, Merced. Seasonal creeks running through farmland are of special environmental concern. Much of this district has groundwater protection concerns (both leaching and run-off).

- District 3 (Dos Palos – Los Banos)
    - Field crops (cotton, grain, rice, alfalfa, sugar beets, silage corn, dried beans); vegetable crops (tomato, cantaloupe, honeydew melon, onion); tree crops (almond); beef and sheep operations; irrigated pasture.
    - Mostly medium to very large farming operations. Significant urban interface issues. Expanding urbanization will be an issue for the foreseeable future (Los Banos). Only a small area in the north district with groundwater concerns from leaching. Environmental concerns are wildlife refuges, duck clubs, and significant endangered species habitat.

- District 4 (Los Banos – Santa Nella – Gustine)
    - Tree crops (almond, cherry, walnut, apricot, dried plum); vegetable crops (tomato, cantaloupe, lima bean); field crops (cotton, sugar beets, grains); dairy and dairy support crops (silage corn, grain hay, sudan grass, alfalfa); rangeland; wildlife areas (refuges, duck clubs).
    - Farm size runs from small to large. Significant urban interface issues (Los Banos). Expanding urbanization will be an issue for the foreseeable future. Wildlife refuges, state parks, and endangered species are the primary environmental concerns.

- District 5 (Merced – Atwater– Stevinson – Livingston – Hilmar – Delhi)
    - Dairy and dairy support crops (silage corn, grain hay, alfalfa, sudan grass); grapes (wine and raisin); almonds; peaches; blueberries; kiwi; walnuts; vegetable crops (sweet potato, watermelons, tomato, truck farms); poultry and egg production; field crops (grains, dried beans, sugar beets, cotton,).
    - Mostly small to medium size farm operations. Emerging urban interface issues (Livingston, Atwater). Field fumigation buffer zones are a major concern near expanding rural residential areas. Environmental concerns are centered on the Merced River and wildlife refuges. Shallow surface water tables results in virtually the entire district designated for groundwater protection from leaching.

Permit and Registration Process

- Agricultural biologists on rotating office duty issue pesticide permits, operator identification numbers, and licensee registrations. For approximately three months (December through February) we operate on an appointment basis, with up to five agricultural biologists on duty.

- Permit applicants are expected to come with updated site and vicinity maps, and anticipated pesticide needs. During the permit review process, site maps are reviewed for completeness; proposed restricted materials are compared to the commodities for any off-label concerns and necessity of use; sites are cross checked with groundwater protection area and endangered species maps for necessary permit conditioning; and, as time allows, pesticide use reporting compliance for the previous year is checked.

- DPR suggested permit conditions have been incorporated into Merced County Agricultural Commissioner permit conditions along with several Merced County specific permit conditions. Each new permit and permit renewal is provided copies of applicable permit conditions and the permittee signs an acknowledgement that he/she has received copies.

- Private applicator certification is handled at the same time as permit issuance. If the private applicator needs to take the examination, it is administered and scored in advance of permit review and issuance. The private applicator re-certification test will be utilized starting December 2007. If renewal is by continuing education, the private applicator records are checked to verify completion of minimum requirements.

- Notices of intent to use restricted materials are reviewed in a timely manner. Staff knowledge and experience is invaluable in this step to know where potential problems exist and how to customize conditions for particular jobs. Pre-application site inspections are performed when weekend duty staff is unfamiliar with the district or when district inspectors are not sure of surrounding areas. Pre-application site inspections are performed on nearly all field fumigation NOIs. A list of sensitive sites requiring special consideration has been developed and identified on a county map and is available to staff.

- Continuing education is a high priority in Merced County, both for our private applicators and licensees. During previous fiscal year at 32 hours of continuing education designed for private applicators in which 18 hours covered laws and regulations. There appears to be a strong correlation between private applicators that renew their certification through continuing education and their compliance rate during monitoring and records inspections. At least 12 hours of laws and regulations continuing education is arranged annually for pest management update classes offered by Merced College. Up to 3 hours a season are covered in industry-sponsored meetings.

- Growers are notified annually of new and expected regulation changes through mail and again and the time of permit issuance. At the time of permit issuance, growers are given a chance to discuss new regulations, or those that are unclear to them on a one-on-one basis with the biologist. Several informational handouts are available to them at this time.

FY 07/08 Goals to Improve the Permit Issuance Process

Accuracy of maps and identification of sensitive sites on the maps is an ongoing concern. As mentioned before, the experience of staff is invaluable when reviewing a notice of intent when the map may not be the best. However, we recognize that this knowledge may not always be available to the person doing the NOI review.

Greater stress will be placed on the evaluation and necessity of growers requesting the addition of restricted materials to their permits.

Continued training of staff and development of the new AG GIS permit program will be stressed in order to evaluate and provide the most accurate and complete permits possible.

FY 07/08 Deliverables

- As with the previous year, a percentage of restricted materials permits will be reviewed in advance of the permit issuance season and permits with inadequate maps will be identified and the folder flagged to alert the permit-issuing biologist of any deficiencies. Permit holders I-Q will be the focus for the 07/08 fiscal year. During permit issuance, we will continue to spend more time on reviewing the maps for accuracy.

- We will also continue to pay close attention to dormant season applications to trees and vines in proximity to waterways for compliance with new dormant spray regulation.

- In conjunction with the permit reminder letter, emphasis will be placed on the requirement for accurate, and in some cases, new maps. The ability to incorporate a GIS program with the permit process in all probability is 2 years away.

Compliance Monitoring

3-Year Statistical History

	FY04/05	FY05/06	FY06/07	3-Year Average
INSPECTIONS				
Ag Application and Mix/Load Inspections	344	356	350	350
Field Worker Safety Inspections	79	82	75	79
Field and Commodity Fumigation Inspections	79	75	59	71
Worker Safety Headquarters Inspections	85	81	50	72
Ag Records Inspections	43	43	28	38
Structural Operator Inspections	100	71	75	82
Fiscal Year Totals	**730**	**708**	**637**	**692**
NON-COMPLIANCE FOLLOW UP				
Inspections Requiring Follow Up	48	88	71	69
Follow Up Inspections Completed	25	48	29	34
-- Percentage	52.08%	54.55%	40.80%	49.14%
INVESTIGATIONS				
Human Effect Investigations	19	21	23	28
Other Investigations	6	8	31	8

Comprehensive Inspection Plan

During fiscal year 2006/2007, Merced County attempted to conduct inspections at or near the average of the previous three years. For 2007/2008, PUE staff will be directed into more enforcement regulation activities such as accessing noncompliances, decision report writing, and agricultural civil penalty hearings. Merced County will again attempt to conduct inspections at this average, but may fall short due to the redirection of staff time. Continuing our emphasis from recent years, emphasis will be placed on verifying compliance with worker safety standards, field fumigation requirements, and monitoring applications in the ag/urban interface. New emphasis will also be placed on surface water and well water protection. Continuing to emphasize follow up inspections for persons or businesses with prior non-compliances.

FY 07/08 Goals to Improve Compliance Monitoring:

Improve corrective action to non-compliances identified through site inspections and investigations. Maintain a comprehensive inspection program to ensure inspections are conducted throughout the year and balanced throughout the five districts.

FY 07/08 Deliverables

- Part of accomplishing this is through better documentation of non-compliances in the place provided on the inspection form or on supplemental pages. Direct communication with

responsible persons with the authority to make the changes necessary to correct the non-compliances.

- Inspection database is now in place. Now that each biologist has a computer the next step is to make searches more accessible. This will improve the tracking of follow up inspections especially when a biologist other than the original biologist conducts the subsequent inspection.

- Biologist will be responsible for tracking of quantity and status of inspections and investigations.

Investigation Response and Reporting Improvement

Significant emphasis has been placed on improving report writing in recent years. Reports are now are much more thorough and professional. However, a few areas have been identified which could improve our investigations:

- Better complaint tracking has been accomplished with an illness/complaint log. Emphasis is placed on the higher priority investigations and efforts are made to complete them in a timely manner. Emphasis will continue to be placed on completing investigations in a timely manner. There is also still a need to streamline the process to finalize the minor complaints. Plans to brainstorm with staff to create a form to handle the more frequent types of complaints.

- Investigational samples. A locking freezer that is dedicated to storing investigational samples prior to shipment to CDFA's Center for Analytical Chemistry is available only to authorized staff. New staff and veteran staff need training in taking various types of samples. To accomplish this, training by the Enforcement Branch Liaison will need to be provided.

- Improved planning during early stages of investigations. Advocate training would identify essential elements of potential violations to assure that necessary evidence is obtained. This training would also need to be provided.

Enforcement Response

3-Year Statistical History

	FY 04/05	FY 05/06	FY 06/07	3-Year Average
Compliance Actions	135	87	50	91
Civil Penalty Actions	6	18	3	9

Self-assessment of Merced County's enforcement response reveals the following:

- Agricultural biologist staff has received adequate training and has the experience in how to properly address noncompliances through appropriate compliance action. Staff completes compliance actions within acceptable time frames.

- A compliance history database was started several years ago, and all inspections, compliance actions, and civil penalty actions are being entered into the database. Compliance history reports are immediately available. This has streamlined the process of analyzing the enforcement options.

- We maintain a pesticide episode investigation log for those cases which will not be assigned a WH&S illness investigation number or a priority episode tracking number.

- We will continue to consider other enforcement options including denying restricted materials permits, licensee registrations, referral of cases to DPR, or consultation with the Merced County District Attorney for the most egregious cases.

- Currently, decision reports are written by the Deputy. Biologist will begin preparing and writing "decision report packages", which would contain draft decision reports, follow–up inspections, and/or compliance interviews. Decision reports written by the biologist would then be reviewed by the Deputy and /or Assistant Commissioner

- An Enforcement Response Coordinator was contracted to provide additional assistance and to help evaluate and streamline the flow of enforcement actions.

FY 07/08 Goal to Improve Enforcement Response:

Improve the timeliness of evaluating non-compliances through the Enforcement Response Regulations. Staff will have to be involved in the process of writing decision reports in order to meet the proposed 30-day review requirement.

FY 07/08 Deliverables

- Training of agricultural biologists in the new Pesticide Enforcement Response Regulations (ERR) and how to process noncompliances through the policy to arrive at appropriate recommendations for civil penalty or compliance action. This can be accomplished through

joint training provided by experienced staff and our Enforcement Branch Liaison. Once this training is provided, staff would be guided in the process of making recommendation for action.

- More timely tracking of noncompliances and processing through the Pesticide Enforcement Response Regulation database Policy has already been initiated. Will consult with staff to refine and strengthen this process.

- Continue to stress the importance of informing the regulated community of the Pesticide Enforcement Response Regulations. This will be accomplished through continuing education sessions and grower contact in the field.